

June/July/August
2010

ASTBERRYS

Newsletter

We are property specialists for:

- Lettings
- Short Let Apartments
- Sales
- Block Management

We operate in:

- South Kensington
- Gloucester Road
- Earls Court
- Knightsbridge

WHO ARE WE?

We are letting and managing agents for individual flats and blocks of flats in Kensington and Chelsea. We will also let to you our own properties and excellent short term apartments. We carry out all building works, refurbishment and maintenance of flats and blocks. We offer in-house legal advice on all aspects of the letting business and property law. We also carry out valuations and property sales.

We are members of the Association of Residential Letting Agents and we are authorised as appointed representative by the FSA to conduct insurance mediation activities. One of our directors is a barrister. We have a clear and transparent fee structure. We only bill for work we do, for example we do not charge second year letting commission on properties, which we do not manage. We offer a straightforward pricing menu for maintenance and building services.

Our regular Newsletter covers areas of interest concerning the management and legal aspects of property, the sales and letting markets.



Marloes Road, W8

Let at £650 pw

Very bright top floor maisonette, 2 bedrooms with study, 2 small terraces.

We have a continued demand for good quality flats in the SW5/SW7/SW10/W8 areas for our excellent applicants. If you have a similar property to let please contact us.



West Cromwell Rd, SW5

Very bright raised lower ground floor two bedroom flat. Separate kitchen. Approx 55m². Access to communal, private, landscaped and walled garden. Five minutes from Underground and Holland Park.

Asking price: £400,000

CAPITAL GAINS TAX [“CGT”] AND CURRENT HOUSE PRICES IN KENSINGTON AND CHELSEA

A brief history of CGT. The whole point of the tax is to stop individuals disguising income as capital, thereby avoiding income tax. On the other hand the state recognises that people who build up a business or buy shares or property take risks and provide a benefit to society. They should have their efforts recognised by a different tax regime. The problem has always been to strike a fair balance. The tax rate was originally set at 30% in the 1960s. During the 1980s the concept of “indexation” was introduced. Following price inflation of the 1970s it was felt unfair that entrepreneurs should pay tax on the inflationary gain as opposed to the real gain. By the 1980s the tax rate had risen to 40% for higher rate income tax payers. In 1998 the Labour government replaced “indexation” with “taper relief”. This favoured those who kept investments for 10 years or more. In such a case the rate of CGT fell to 24%. In 2008 to the surprise of all at the time, the last Labour chancellor abolished both “indexation” and “taper relief”. Instead there was a flat CGT rate of 18% irrespective of either the length of time an asset had been held or inflation between purchase and sale. **The new changes made by this government in the recent budget increased the rate from 18% to 28% for most tax payers and did not re establish either “indexation” or “taper relief”.**

The market reacted to the planned increase in the rate from 18%. Many investors and second home owners, fearing the worst placed their properties on the market in the run up to the budget. One well known central London agent reported an increase of 150% in new instructions in May 2010 over the same month for last year. With selling prices back to around the levels of the autumn of 2007 many people took the view that a quick sale subject to 18% CGT would be preferable to holding a property in the hope of further gains subject to a 40% or 50 % new CGT rate.

Not as bad as it could have been. This is the market’s view of the change. A flat 28% rate in times of low inflation is not punitive. **The market reacted again. New instructions are drying up and some properties, placed on the market before the budget have now been withdrawn.**

The problem of lack of supply continues to mean that the volume of sales transactions is still very low and prices remain high. The expected hike in the CGT rate teased out some sellers but far more important factors are the following and they suggest that the imbalance of buyers over sellers is here to stay for the moment : -

- Interest rates are at historic lows making the cost of borrowing very cheap whether you are a home owner or investor. Why sell if you do not have to?

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Our specialist property law team deals with
 ...leasehold enfranchisement...service charges...
 residential and commercial tenancies

We are delighted to accept instructions from Astberrys
 and their clients and will be pleased to advise in relation
 to all areas of property and landlord and tenant law.

*Clients of Astberrys, who wish to keep up with
 recent property law developments
 are welcome at*

The *Property Law* Website

www.propertylawuk.net

*'The online property law
 updating service'*

- Increased activity in the City means that there is greater competition for quality rented accommodation. Rental yields are rising. For example in South Kensington current yields on one and two bedroom flats are between 5 and 5 ½ %. This makes property, especially if you are borrowing at rates fixed before the credit crunch, a very attractive income investment compared to cash or gilts. In addition there is always the prospect of a capital gain as well if property prices go up.
- The buy to let market is starting to revive as a result of rising rental yields and the increased availability of finance. It is now possible to borrow very large fractions of the purchase price or borrow at rates just below 5%. It is still true that the availability of buy to let finance is limited compared to the recent past. In September 2007 there were over 3,500 "buy to let products" on offer. There are currently just over 250. However the situation is slowly improving. For example, Paragon the specialist buy to let lender may be considering a move back into the lending market later this year.
- Although the euro has weakened and many continental cash buyers have already purchased in central London there is still keen competition from non European purchasers looking for homes and investment properties.

However in the medium term we do not see the present situation continuing. The coming expenditure cuts and tax rises will have an adverse knock on effect on employment and wealth creation in the economy as a whole and also in the City of London. At some point interest rates will start to rise [inflation is currently over 3%]. Kensington and Chelsea will feel the effects of these factors less than almost anywhere else in the country but the Borough is not an island. **The twin effects of reduced income and more expensive finance will cause some property owners to sell, but the recent market movements prompted by the fears of a CGT hike will have no lasting impact.**



We usually have a selection of our own modern and comfortable 1 bedroom flats in Earls Court located very close to the Underground.

Long term lets start from £325 per week and short term lets are priced between £550 - £700 per week, depending on the length of stay.

THE CHANGES IN LEGISLATION FOR HMOs. A NEW HEADACHE FOR LANDLORDS - PLANNING PERMISSION MAY BE REQUIRED BEFORE YOU LET A THREE BEDROOM PROPERTY .

What is an HMO? Most people when they think of a House in Multiple Occupation [“HMO”] imagine a building divided into bed sits with shared kitchen and washing facilities. Such accommodation is usually an HMO but **you may be surprised to learn that any flat or house occupied by three or more tenants who are not part of a family unit is also an HMO!**

The “licence” problem. HMOs are not licensable unless they are occupied by five or more individuals. This means that in most cases you can let your property to up to four separate individuals without having to apply to the local authority for a licence. You may [depending on the nature of the property and the status of the occupants] still, be running an HMO but the extra regulations, expense and inspection regime which apply to licensable HMOs will not apply to you.

What has changed? The last government became concerned that in various parts of the country the character of any urban area might be adversely affected by the coalescence of student housing. In order to give local authorities the power, if appropriate to stop areas being turned into “student ghettos” the planning laws were amended. **From 6 April 2010 planning permission was required before a property could be let as an HMO. This means that now if you want to let your property to more than two tenants who are not part of a family then you will have to apply for planning permission! However the changes are not retrospective. If, before 6 April you used to let a flat to three sharers then you may go on doing so without the need to apply for planning permission, we think. However it may be that the planning department of the Royal Borough of Kensington and Chelsea has a different view and you should check first.** But it is certain that if you are now bringing a three bedroom property onto the market, which was not previously let to three or more unrelated individuals, and you are thinking of letting to three unrelated tenants then you will need planning permission. This means that you will have to make an application at the town hall, pay a fee [of course] and wait at least 6 weeks before you have such permission. The new legislation applies to the Royal Borough of Kensington and Chelsea even though the problem here is a shortage of quality student accommodation and properties suitable for young professional sharers!

Some relief is at hand. The new government will bring in further new legislation but not before October 2010, at the earliest. It is proposed to allow a change from the C3 planning class [normal flat/house] to C4 [HMO property which will include a property to be let to three or more unrelated tenants] without the need for a planning application. Any local authority will however retain the power to insist on an application for planning permission. We will have to wait and see what policy emerges from the Royal Borough of Kensington and Chelsea nearer the time. For the moment at any rate, as we point out above, an application for planning permission must be made if you are bringing onto the market, for the first time a property you are proposing to let to three or more unrelated individuals.



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